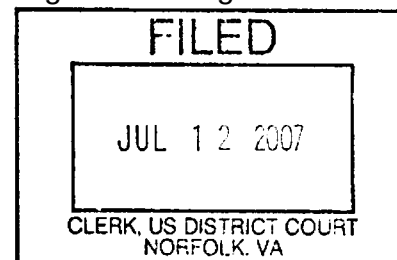


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division



UNITED STATES OF AMERICA

v.

4:07CR53

CANDELARIO DIAZ

Defendant.

REPORT AND RECOMMENDATION  
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to possession of a firearm shipped in interstate commerce by an illegal alien, in violation of 18 U.S.C. §§ 922(g) and 924(a)(2). On July 11, 2007, defendant appeared before the Court for the purpose of entering his guilty plea. Defendant was represented by appointed counsel, Keith Kimball, Esquire.

Defendant was appropriate in appearance, responsive, and competently prepared for the hearing. He answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was remanded to the custody of the United States Marshal, pending completion of a presentence report.

Defendant is thirty-six years of age, attended school in El Salvador for seven years, and speaks Spanish as his native language.

Because defendant does not speak or read English, he was assisted by a certified translator. There was no indication that defendant was unable to understand the questions posed by the Court or the concepts inherent in a guilty plea. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea without a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

Norfolk, Virginia

/s/  
James E. Bradberry  
United States Magistrate Judge

July 12 , 2007